



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2637-99

30 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C.1552 -

Encl: (1) DD Form 149
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy applied to this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Messrs. Morgan, Silberman and Frankfurt reviewed Petitioner's allegations of error and injustice on 24 May 2000, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Naval Reserve on 20 March 1992 for eight years at age 19. He was ordered to active duty for a period of two years on 30 March 1992.

d. Petitioner was advanced to SA (E-2) and served without incident until 1 March 1993 when he received nonjudicial punishment (NJP) for selling government property. Punishment imposed was a reduction in rate to SR (E-1). Petitioner served without further incident and was again advanced to SA on 16 January 1994. Incident to his released from active duty, he was not recommended for reenlistment. However, his military behavior and overall traits averages were both 3.7. On 28 March 1994 he was honorably released from active duty, transferred to the Naval Reserve, and assigned an RE-4 reenlistment code.

e. Individuals in pay grades E-1 and E-2 are not authorized to reenlist unless involved in a special program and approval is granted by Commander, Naval Personnel Command. Regulations authorize the assignment of an RE-7 reenlistment code to reservists completing an initial two-year active duty obligation under the 2X8 Naval Reserve Program. An RE-4 reenlistment code means that the individual is not eligible for reenlistment without prior approval from Commander, Naval Personnel Command.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes Petitioner had only one disciplinary action, and his overall performance was above average. It appeared to the Board he was not recommended for reenlistment only because of his pay grade at the time of discharge. The Board notes that most individual reservists can hardly be expected to meet the professional growth criteria during a two year active duty commitment. Absent evidence to the contrary, the Board finds no demonstrable reason why he was assigned the most restrictive reenlistment code of RE-4. Therefore, the Board concludes that it would be appropriate and just to change the reenlistment code to RE-7.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the Re-4 reenlistment code, assigned on 28 March 1994, to RE-7. This should include the issuance of a new DD Form 214.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or

completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.

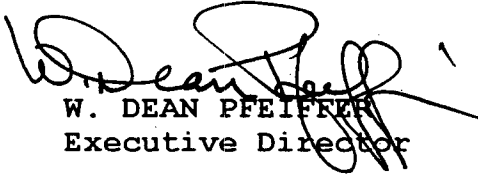
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director